

REMARKS

Claims 28-72 were previously presented for consideration. These claims are fully supported by the original disclosure, including original claims 15 and 18. Accordingly, claims 1-72 are pending in the reissue. Claims 1, 2, 7, 16, 19-21, 23, 28-45, and 52-72 are independent.

The Examiner's indication that claims 1-15, 20, and 23-27 are allowed, is noted with appreciation.

Drawings

The Office Action objected to the drawings because the PTO no longer transfers drawings from the patent files.

Applicants are submitting a new set of drawings to be included with the current file. Withdrawal of this objection is respectfully requested.

Missing Papers

It appears that executed copies of formal documents such as the assignee consent and offer to surrender may have been misplaced and are currently not available in file history.

Applicants are unaware of ever having filed such papers without appropriate signatures. Review of applicants' file has revealed fully executed copies of these documents. Applicants therefore are including fully executed copies of these documents together with the present response.

Objection to Reissue Declaration

The Reissue oath/declaration filed with the application was objected to as being defective for failing to identify at least one error which is relied upon to support the Reissue application. The Office Action indicates that the declaration did not sufficiently specify, or give a proper example of the error. Rather, the example set forth in the declaration was indicated as stating only that the error pertains to “omission of broader claims to an operator assisted prescription dispensing system and a method of dispensing pills in a prescription dispensing system.” This was not considered an error by the Office Action indicates that the patent inherently applies to the operator assisted system and method as set forth in the original claims. **Applicant disagrees because even the recitation expressly of an inherent claim limitation is an error correctable by reissue. Applicant does not understand why this is not sufficient when the original claims did not recite the specific language “operator assisted prescription dispensing system” and the reissue declaration specifically references this language as one of the errors being corrected.**

In addition, Applicants disagree, in that the declaration **specifically identifies at least two errors** (i.e., “omission of broader claims to an operator assisted prescription dispensing system and a method of dispensing pills in a prescription dispensing system.”), despite the fact that the M.P.E.P. only requires identification of **only one error**.

Specifically, the MPEP states at section 1414, page 1400-29 (Rev. 2, May 2004):

A change or departure from the original specification or claims represents an “error” in the original patent under 25 USC 251. . . . Applicant **need only specify in the**

reissue oath/declaration one of the errors upon which reissue is based. Where applicant specifies one such error, this requirement of a reissue oath/declaration is satisfied. . . .

In identifying the error, **it is sufficient that the reissue oath/declaration identify a single word, phrase, or expression** in the specification or in an original claim, and how it renders the original patent wholly or partly inoperative or invalid.

Applicants therefore urge the Examiner to favorably reconsider the oath/declaration and conclude that it is not defective and does not require any changes.

Prior Art Rejections

Claims 16 and 46 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,208,762 issued to Charhut. Claims 21 and 52 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,953,745 issued to Rowlett. Claims 28-45, 54, and 55 were rejected under 35 U.S.C. §102(b) as being anticipated by either U.S. Patent No. 4,664,289 issued to Shimizu, Rowlett, or Charhut. Claims 49-51 were rejected under 35 U.S.C. §102(b) as being anticipated by Charhut. Claims 17 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Charhut in view of U.S. Patent No. 3,139,713 issued to Merrill. Claim 18 was rejected under 35 U.S.C. §103(a) as being unpatentable over Charhut. Claims 16, 18, and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shimizu in view of Charhut. Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over Shimizu in view of Charhut and further in view of Merrill. Claims 16-18 and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over admitted prior art in view of Charhut. Claim

19 was rejected under 35 U.S.C. §103(a) as being unpatentable over admitted prior art. Claim 22 was rejected under 35 U.S.C. §103(a) as being unpatentable over Rowlett. Claims 47 and 49-51 were rejected under 35 U.S.C. §103(a) as being unpatentable over either Shimizu, Rowlett, or Charhut. Claims 48 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Charhut in view of Merrill.

These rejections are respectfully traversed.

At the outset, **Applicant disagrees** with the Examiner's statement on pages 10-11 of the Office Action, that the prior art "need not specifically disclose the claimed function but merely set forth the structure. It is only the structure set forth in the claims that need be shown by the references and little patentable weight is afforded to the functional language unless it is set forth in means plus function terms under 35 USC, sixth paragraph." Applicant disagrees. The **Manual of Patent Examining Procedure (MPEP)** specifically states at Section 2173.05(g), copy enclosed, the following:

A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients).

There is nothing inherently wrong with defining some part of an invention in functional terms. . . .

A functional limitation must be evaluated and considered, like any other limitation of the claim, for what it conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often in used in association

with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step.

Accordingly, Applicant respectfully asserts that the Examiner **must** take into consideration and provide patentable weight for the claimed limitations, for example of “controlling said plurality of pill dispensers to simultaneously count out the pills” and “controlling at least two of said plurality of pill dispensers to sequentially dispense the counted pills comprising one of said plurality of prescriptions at a time.”

DIFFERENTIATORS OVER PRIOR ART

Applicant provides the following remarks regarding the prior art reference cited by the Examiner:

The Charhut patent discloses an automated prescription vial filling system. The system generally provides for dispensing of drugs, wherein a patient's order of one or more prescriptions can be automatically filled. Three or more filler lines are used to store various drugs, and a vial size is assigned to each line. When a prescription is filled, it is automatically assigned to one of the lines based on the vial size requirements. The Charhut patent also provides an ability to collect all of a patient's prescriptions so that they may be consolidated into a single order. The Charhut patent, however, does not disclose features such as simultaneous counting and sequential dispensing of pills.

Charhut requires that an **individual bottle filling "line of machines"** (each with the same multiplicity of drug types) be set up to handle **each size** of prescription bottle to be filled.

In addition, Charhut **labels bottles during or after filling**. In contrast, in at least one embodiment of the invention, filling a pre-labeled bottle (especially when the pre-labeled information is unique to a specific patient) insures that the correct label is applied to the correct bottle. In addition, labeling "during or after filling" can result in the **labeling process slowing down the filling process** (assuming "one up printing" - the subsequent label is not printed until the preceding label is complete and applied to the bottle).

The Rowlett patent discloses a medication dispensing apparatus that is generally capable of dispensing a selected one of a plurality of drugs. A cabinet is used to house a plurality of individual dispensing mechanisms, each of which is adapted to store and dispense a plurality of a selected drug unit. A control unit is provided to generate a drug dispense signal corresponding to the selected drug and cause the appropriate dispensing mechanism to dispense the drug. The control unit can maintain an inventory of the stored drugs, and can be preprogrammed with a prescribed schedule for a particular patient such that a can be dispensed for the patient only during a certain time period. The Rowlett patent, however, **does not disclose** features such as simultaneous counting and sequential dispensing of pills. In addition, there is no reference to labeling the drug with prescription related information (patient name, doctor's name, pharmacy name/address/phone number, prescription date/number, dosing instructions, etc.), and the like.

The Shimizu patent generally discloses a drug dispensing apparatus that includes a drug dispensing unit and a control unit. The apparatus is capable of dispensing individual drug doses to a common collection area from one or more drug dispensing cartridges for packaging. The drug dispensing unit is internally provided with a plurality of shelves, with a plurality of drug

dispensing cartridges removably disposed on each of the shelves. Each of the drug dispensing cartridges accommodates a plurality of individual identical drug doses. Each drug dosage is discharged one at a time from the cartridge through rotation of rotary members in compliance with input information received from the control unit. The Shimizu patent, however, does not disclose features such as simultaneous counting and sequential dispensing of pills. In addition, the Shimizu patent **makes no reference to labeling**. The only conclusion is that Shimizu is not dealing with prescriptions that are inputted into a main control system and electronically downloaded to the dispensing system for prescribing label printing/application, and counting into a bottle for delivery to a patient.

The Examiner asserts that the Gross patent, U.S. 5,101,359, discloses the automatic discharge of articles that can be operated in different modes, one of which is the “simultaneous counting of articles and their sequential dispensing.” Applicants disagree with the Examiner because the Gross patent cannot operate in the present invention since the Gross patent does not describe any mechanism to handle different pharmaceuticals responsive to prescription orders. More particularly, the Gross system is quite elementary, and incapable of dispensing different products and/or pharmaceuticals.

More specifically, the Gross patent involves the high speed high volume counting of fasteners (push pins, nails, screws, tacks, etc.). Gross has identified counting as the time consuming task in the overall counting and packing process for fasteners. As such, the Gross methodology describes the simultaneous counting of several small batches **of the same part** that will be subsequently combined into one large package. **Gross is therefore clearly different**

from the present invention which, for example, provides the **"simultaneous counting and sequential dispensing"**, in that the present invention insures almost flawless matching of a specific label to a specific counted batch (the prescription).

The Merrill patent is merely a pill counting and filling mechanism or station using a conveyor. The Merrill patent makes no reference to the concept of "simultaneous counting and sequential dispensing." Specifically, the Merrill concept involves the filling of multiple manufacturer's bottles, **not individual prescription bottles, and all with the same drug.** Change over to a different drug requires a significant amount of time.

In contrast, in the present invention, in at least one embodiment, is provided the **"simultaneous counting and sequential dispensing"** of the pharmaceutical product. This functionality that is being claimed in the present invention provides benefits not provided by the prior art. For example, one important benefit of this feature is that only one prescription is presented to the pharmacist at any given time. This eliminates the possibility of the pharmacist applying the wrong label to the wrong prescription.

Another benefit of the present invention relates to efficiency. For example, the "simultaneous counting" part of the present invention allows the automated part of the system to build a queue of waiting prescriptions (while not allowing the pharmacist to access those prescriptions) so that the pharmacist does not have any idle time waiting for the next prescription.

COMMENTS REGARDING SPECIFIC EXAMINER STATEMENTS

Applicant next provides specific comments relating to several of the dependent claims noted by the Examiner. For example, the Examiner references an “on light” as being within the prior art in connection with claims 18, 22, 46, 47, 49, 51. It appears that the Examiner did not fully understand the purpose of the indicator light. To reiterate indicator light functionality, there are two types of indicator lights used in the dispensing method.

Indicator light at each bottle filling snout – In accordance with at least one embodiment of the present invention, while several individual prescriptions are counting (simultaneous counting), only one prescription can be dispensed at one time (sequential dispensing). When the control system prints a specific label and the label is discharged from the label printer, the operator retrieves the label and applies it to an empty bottle. The operator then looks for the one indicator light that is illuminated and goes to that snout to dispense the pills into that bottle. The operator caps the bottle by hand and does one last scan of the barcode to signal the end of one prescription and the beginning of the next. **This replenishment process is a unique part of the overall process of at least one embodiment of the present invention.**

Indicator light at each supply hopper - A full hopper contains a set number of pills with the quantity varying from hopper to hopper, depending on the size of the pills (small pills have more in a hopper, large pills have less in a hopper). The controller counts the hopper down each time a prescription is counted out of that hopper. When the control system knows that the hopper is empty, it schedules a "replenishment", and lights the indicator light at that hopper. This tells the operator to go to that hopper, scan the barcode on the hopper (to verify to the

controller that the correct hopper is being addressed), scan the operator's barcode (to verify that the operator is authorized to do a replenishment), and scan the large refill container (to verify that the correct container is being used). If all scans are correct, the controller unlocks the supply hopper door, and the operator fills the hopper. **This replenishment process is a unique part of the overall process of at least one embodiment of the present invention.**

Reference to a "plurality of snouts..." (claims 17 and 19) - Snouts are referenced in the Merrill patent. As mentioned above, the Merrill concept relates to filling the same drug into multiple bottles, not unique prescriptions into unique bottles.

"One up" label application (claims 16, 18, and 46) - The Examiner says that "it would have been obvious to one skilled in the art to label the packages of Shimizu after the filling operation so that a label will not be produced for the next prescription until after pills specified in a preceding prescription have been received in the package." Applicant disagrees. For example, the timing of printing and applying a label is not "obvious". Considering all of the different methodologies available to fill prescriptions (whether manual, semi-automatic, or fully automated), there is a wide variation as to when, where, and how patient labels are printed and applied. In contrast, in at least one embodiment, the methodology and/or functionality of the present invention prints and applies labels prior to filling the bottle because it provides tighter control and insures which prescription is going into which bottle.

RECONSIDERATION OF PENDING CLAIMS

Independent claim 16 of the present invention defines an automated prescription dispensing system that comprises:

a plurality of adjacently arranged pill dispensers, each operable to count out and dispense pills of a different pharmaceutical, computer control means for storing a plurality of prescriptions each specifying a different pharmaceutical in pill form and a number of pills and for selecting the pill dispensers dispensing the pharmaceuticals specified in said stored prescriptions and controlling the selected pill dispensers to simultaneously count out pills from said pill dispensers and sequentially dispense said counted pills, said computer control means stopping each pill dispenser from counting out and dispensing pills when the number of pills specified in the corresponding prescription have been counted out and dispensed, and label means to produce prescription container labels, said computer control means causing said label means to produce prescription labels containing information corresponding to said stored prescriptions, wherein said label means produces said prescription labels one at a time and will not produce a prescription label for the next prescription until after pills specified in a preceding prescription have been received from a pill dispenser into a prescription container.

One significant feature of independent claim 16 is the manner in which the pills are counted out and dispensed. More particularly, the pill dispensers are controlled such that they simultaneously count out the pills, but sequentially dispensed them. Consider, for example, five dispensers that will be counting out 100 pills each to be dispensed. For example, all five dispensers are initially controlled to simultaneously count out 100 pills. However, the pills from each dispenser are then sequentially dispensed. Referring to the previous example, assume that each dispenser requires 15 seconds to count 100 pills. Conventional devices would consequently require 75 seconds just for counting out the pills. According to the automated prescription dispensing system of claim 16, and one embodiment of the present invention, only 15 seconds are required to count out all the pills because the dispensers operate in parallel to simultaneously count out the pills. As can be seen, significant time savings can be realized through the use of the invention defined by independent claim 16. Advantageously, the present invention, in one

embodiment, only sequentially dispenses the pharmaceuticals to ensure, for example, the appropriate pharmaceutical is dispensed in the appropriate bottle.

The Office Action alleges that the applied references anticipate and render claim 16 obvious. In support of this rejection, the Office Action indicates, for example, that Charhut discloses a pill dispensing and packaging machine that comprises all the elements recited in independent claim 16. These elements include: a plurality of pill dispensers containing different pills, computer control means to store prescriptions to count out and dispense the pills into a package and to stop the dispensers when the desired number of pills are dispensed, and a labeling device that labels containers either during or immediately after the pills have been dispensed into the containers. Shimizu is indicated as disclosing all of the features of independent claim 16 except for the use of a printer as claimed. The prior art cited in the Information Disclosure Statements are also alleged as disclosing the features recited in independent claim 16. The Office Action also cites various passages in the references wherein it is believed the claimed features are disclosed.

Contrary to the assertions made in the Office Action, however, the applied references and the prior art cited in the IDSs do not anticipate or render independent claim 16 (or any of the pending claims) obvious. Review of the passages cited in the Office Action has not revealed any disclosure or suggestion for the specific combination of features recited in independent claim 16. For example, none of the cited references provide any disclosure or suggestion for an automated prescription dispensing system wherein pill dispensers are controlled to **“simultaneously count out pills from said pill dispensers and sequentially dispense pills,”** in combination with the

remaining elements of claim 16. For example, column 3, lines 44-62 of Charhut (cited in the Office Action) does not reveal any information that the pills are simultaneously counted out, and sequentially dispensed. Likewise, the passages cited from the remaining references do not reveal any disclosure or suggestion for such features in combination with the remaining claim elements. As described earlier, in one embodiment of the present invention, great savings in dispensing time and safety are achieved as a result. No such savings are at all described in the prior art.

Specifically, the prior art fails to disclose or suggest the combination of limitations, where:

a plurality of adjacently arranged pill dispensers, each operable to count out and dispense pills of a different pharmaceutical, computer control means for storing a plurality of prescriptions each specifying a different pharmaceutical in pill form and a number of pills and for selecting the pill dispensers dispensing the pharmaceuticals specified in said stored prescriptions and controlling the selected pill dispensers to simultaneously count out pills from said pill dispensers and sequentially dispense said counted pills, said computer control means stopping each pill dispenser from counting out and dispensing pills when the number of pills specified in the corresponding prescription have been counted out and dispensed, and label means to produce prescription container labels, said computer control means causing said label means to produce prescription labels containing information corresponding to said stored prescriptions, wherein said label means produces said prescription labels one at a time and will not produce a prescription label for the next prescription until after pills specified in a preceding prescription have been received from a pill dispenser into a prescription container.

It is therefore respectfully submitted that, as amended, independent claim 16 is allowable over the art of record.

Claims 17 and 18 depend from independent claim 16, and are therefore believed allowable for at least the reasons set forth above with respect to independent claim 16. In

addition, claims 17 and 18 include additional limitations that are independently patentable. For example, claim 17 further recites “a plurality of output hoppers are provided, one for each of said pill dispensers to receive the pills counted out and dispensed by said pill dispensers, said computer control means including means to selectively permit the release of the pills from said output hoppers into prescription pill containers,” in combination with the features of independent claim 16. The prior art does not provide disclosure or suggestion for such a combination of elements.

Independent claims 19 and 21 have been amended, somewhat similar to claim 16, to recite the additional features of simultaneously counting out the pills and sequentially dispensing them. As previously indicated with respect to independent claim 16, such features are not taught, shown, or in any way suggested by any of the applied references. Furthermore, the combination of features recited in claims 19 and 21 is not shown or suggested by any of the applied references.

It is therefore respectfully submitted that independent claims 19 and 21 are also allowable over the art of record.

Claim 22 depends from independent claim 21, and is therefore believed allowable for at least the reasons set forth above with respect to independent claim 21. In addition, claim 22 includes additional limitations that are independently patentable when considered in view of the combination of features recited in claim 21. More particularly, claim 22 further recites that “said means to increase said hopper quantity includes a bar code reader to read a bar code on a bulk

supply container of pills to be added to the supply hopper of a given pill dispenser.” Such a combination of features is not shown or suggested by the prior art.

Independent claim 28 defines an operator assisted prescription dispensing system that comprises the following combination:

a plurality of pill dispensers, each operable to count out pills of at least one pharmaceutical, at least one computer controller including a control system responsively connected to and controlling said plurality of pill dispensers and storing a plurality of prescriptions each specifying a pharmaceutical in pill form and a number of pills, and for selecting said plurality of pill dispensers dispensing the pills specified in at least one of said plurality of prescriptions and controlling said plurality of pill dispensers to simultaneously count out the pills, said computer controller stopping each pill dispenser from counting out the pills when the number of pills specified in the corresponding prescription have been counted out, said computer controller controlling said plurality of pill dispensers to sequentially dispense the counted pills corresponding to at least one of said plurality of prescriptions, and a label system to produce prescription container labels, said computer controller causing said label system to produce prescription labels containing information corresponding to said stored prescriptions, wherein said label system produces said prescription labels one at a time and will not produce a prescription label for the next prescription until after pills specified in a preceding prescription have been received from a pill dispenser into a prescription container.

Similar to independent claim 16, claim 28 also reflects the combination of features of simultaneously counting out the pills and sequentially dispensing them. Such features have previously been indicated as lacking in the art of record. In particular, the art of record does not provide disclosure or suggestion for these features in combination with the remaining elements of claim 28. Applicants have also indicated the benefits achieved by such features. Review of the passages cited by the Office Action has not revealed any disclosure or suggestion for the combination of features recited in independent claim 28. The applied references simply do not suggest a prescription dispensing system having the combination of features recited in claim 28.

It is therefore respectfully submitted that independent claim 28 is allowable over the art of record.

Independent claims 29-45 and 52-54 also define operator assisted prescription dispensing systems that include either (in some cases both) interaction with the operator or simultaneously counting out the pills, while sequentially dispensing the pills. As previously stated, these features, when viewed in combination with the remaining elements (or steps/features) of independent claims 29-45 and 52-54, are simply not shown or in any way suggested by any of the applied references, taken individually or in combination.

It is therefore respectfully submitted that independent claims 29-45 and 52-54 are allowable over the art of record.

Claims 46-51 depend from independent claims 28-45, and are therefore believed allowable for at least the reasons set forth above with respect to independent claims 28-45. In addition, these claims each introduce novel elements that independently render them patentable over the art of record. For example, claim 46 indicates that “each of said pill dispensers signals the operator to assist in dispensing the pills when ready.” This feature, in combination with the additional elements of claims 28-45, is not shown or suggested by the art of record.

Claim 47 further includes “a plurality of output hoppers one for each of said pill dispensers to receive the pills counted out by said pill dispensers, output snouts, one connected to

each of said output hoppers, said controller controlling the selective release of the pills from said output hoppers through the corresponding output snouts, said output snouts being arranged in at least one row and defining an aisle extending adjacent to and parallel to said row to permit the operator to have ease of access to pills dispensed through said snouts,” in combination with the features of claims 28-45. Claim 51 further requires that “said controller indicates to the operator when a hopper quantity of at least one of said dispensers requires refilling responsive to predetermined criteria and increases the hopper quantity for the at least one dispenser when the pills are added to a supply hopper of the at least one dispenser by a number of pills,” in combination with the features of claims 28-45.

Claims 55-72 are newly presented and define article dispensing systems. In particular, the article dispensing systems defined by claims 58, 63-65, and 70 define operator assisted systems requiring interaction with an operator. Claims 55-72 include broader aspects of independent claim 20 that was allowed and issued without any comment by Applicants, and therefore, the broader aspects were not surrendered during prosecution of U.S. Patent 5,720,154, and to which Applicants are entitled protection. Furthermore, the combination of features defined by claims 55-72 is not shown or suggested by the prior art. It is therefore respectfully submitted that claims 55-72 are allowable over the art of record.

Miscellaneous Papers

The Office Action also objects to the application under several grounds as lacking various papers. For example, the Office Action indicates that the application lacks a proper

written consent of all assignees owning an undivided interest in the patent. The Reissue application is also indicated as being filed without a proper offer to surrender the original patent. A proper assent of the assignee is also indicated as lacking. The Office Action notes, however, that copies of these forms appear to be on file although they are not signed.

Applicants are including with this response, copies of the above-referenced documents as filed on October 27, 2000, together with the stamped postcard from the Patent Office. Withdrawal of these objections is therefore respectfully requested.

For the reasons stated above, it is respectfully submitted that the present reissue application and all of the pending claims are now in condition for allowance. The Examiner is respectfully requested to contact the undersigned, if it is believed that such contact would further the examination of the present application.

CONCLUSION

Applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited prior art shows any of the elements recited in the claims. However, Applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

In addition, each of the combination of limitations recited in the claims includes additional limitations not shown or suggested by the prior art. Therefore, for these reasons as well, Applicants respectfully request withdrawal of the rejection.

Further, there is no motivation shown to combine the prior art cited by the Examiner, and even if these teachings of the prior art are combined, the combination of elements of claims, when each is interpreted as a whole, is not disclosed in the Examiner's proposed combination. As the combination of elements in each of the claims is not disclosed, Applicants respectfully request that the Examiner withdraw the rejections.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples Applicants have described herein in connection with

distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicants assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicants have emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicants do not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicants are providing examples of why the claims described above are distinguishable over the cited prior art.

Applicants wish to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, Applicants reserve the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely Applicants' best attempt at providing one or more definitions of what the Applicants believe to be suitable patent protection. In addition, the present claims provide the intended scope of protection that Applicants are seeking for this application. Therefore, no estoppel should be presumed, and Applicants' claims are intended to include a scope of protection under the Doctrine of Equivalents.

Further, Applicants hereby retract any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain allowance, and only maintains the arguments that persuaded the Examiner with respect to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, Applicants specifically retract statements that one of ordinary skill would recognize from reading the file history were not necessary, not used and/or were rejected by the Examiner in allowing the patent application.

For all the reasons advanced above, Applicants respectfully submit that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicants respectfully submit that the Application is in condition for allowance, and that such action is earnestly solicited.


AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees, which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

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